



**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

242

CRM-M-41243-2024

Date of decision: 02.09.2024

Malkiat Singh alias Baba

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Rajiv Kumar Saini, Advocate for the petitioner.

Mr. Amit Rana, Sr. DAG, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner in the instant (third) petition is seeking the concession of bail under Section 483 of the Bharatiya Nagrik Suraksha Sanhita, 2023 in case FIR No.230 dated 26.11.2022 under Sections 307, 379-B(2), 397, 120-B of the IPC and Sections 25(A) of the Arms Act, 1959 registered at Police Station Beas, Amritsar.

2. On a pointed query put to the learned counsel for the petitioner as to what was the material change in circumstances after the withdrawal of the previous petition on 08.01.2024, filed by the petitioner for grant of regular bail, he has submitted that identically placed co-accused Pritpal Singh alias Pappu has since been extended the concession of bail by this Court vide order dated 02.08.2024 (Annexure P-6).

3. Learned counsel for the petitioner submits that a false and fabricated case having been planted upon the petitioner is evident from the fact that firstly in the charge sheet itself, it had been categorically

**CRM-M-41243-2024**

noticed by the investigating agency itself that despite the complainant having been served repeatedly, she had not been cooperating with the investigation qua the articles/goods which had allegedly been snatched during the occurrence in question and secondly even as per the allegations levelled in the FIR which has been annexed as Annexure P-1, it was not the petitioner but co-accused Prabhjot Singh, who had allegedly fired towards the son of the complainant, when his mask came off. Learned counsel has further submitted that other than presence of the petitioner being shown and that too pursuant to a disclosure statement suffered by co-accused Prabhjot Singh, there was no incriminating material collected by the investigating agency which could in any manner link him with the crime in question. Still further, it has been submitted by the learned counsel for the petitioner that after the charges were framed on 18.12.2023, the learned Trial Court was adjourning the case repeatedly on account of non-appearance of the complainant, her son and daughter. It has been thus urged by the learned counsel since there is no likelihood of the trial concluding in the near future, further incarceration of the petitioner would serve no useful purpose as now he has been in custody for more than a year having been arrested on 05.03.2023.

4. Per contra, learned State counsel while opposing the prayer made by learned counsel for the petitioner, on instructions, has not disputed the contents of the charge sheet with respect to the complainant failing to supply the list and the details of the snatched articles; it has also not been disputed by the learned State counsel that it was co-



CRM-M-41243-2024

accused Prabhjot Singh, who had been attributed the sole firearm injury on the leg of the son of the complainant and the petitioner was nominated as an accused pursuant to a disclosure statement made by co-accused Prabhjot Singh, wherein also other than the presence of the petitioner being claimed along with him, no other specific role had been attributed.

5. On a pointed query put to the learned State counsel, he, on instructed, has not disputed that the case is being repeatedly adjourned before the learned Trial Court on account of continuous non-appearance of the complainant as well as the two other material witnesses. It has been submitted that as many as 29 prosecution witnesses have been cited and till date not even single witness stands examined. However, learned State counsel has submitted that there are three criminal cases pending against the petitioner, although he stands acquitted in four other criminal cases.

6. I have heard learned counsel for the parties and perused the material placed on record.

7. The petitioner has been in custody since 05.03.2023. There is no likelihood of the trial concluding in the near future as the complainant and the alleged eye witnesses have been repeatedly absenting themselves before the learned Trial Court. The petitioner's name surfaced in the disclosure statement allegedly suffered by co-accused Prabhjot Singh. In the facts and circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of bail to the petitioner.



CRM-M-41243-2024

8. Accordingly, the instant petition is allowed. The petitioner be admitted to bail on his furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

9. Needless to add, in case the petitioner misuses the concession of bail granted to him, the State would be at liberty to seek cancellation of the same.

02.09.2024

Vinay

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No